

**BEFORE THE PUBLIC UTILITIES COMMISSION OF
THE STATE OF CALIFORNIA**



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Order Instituting Rulemaking on the
Commission's Own Motion to Assess and Revise
The Regulation of Telecommunications Utilities.

Rulemaking 05-04-005
(Filed April 7, 2005)

Rulemaking for purposes of revising General Order
96-A regarding informal filings at the Commission.

Rulemaking 98-07-038
(Filed July 23, 1998)

**OPENING COMMENTS OF VERIZON CALIFORNIA INC. (U-1002-C) AND ITS
CERTIFICATED CALIFORNIA AFFILIATES ON PROPOSED DECISION OF
COMMISSIONER CHONG**

ELAINE M. DUNCAN
RUDOLPH M. REYES
711 Van Ness Avenue, Suite 300
San Francisco, CA 94102
Tel: 415-749-5539
Fax: 415-474-6546
rudolph.reyes@verizon.com

Attorneys for Verizon

August 13, 2007

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Pursuant to Article 14 of the Commission's Rules of Practice and Procedure, Verizon California Inc., on behalf of itself and its certificated California affiliates (collectively "Verizon"),¹ submits these Opening Comments on the July 23, 2007 Proposed Decision of Commissioner Chong, OPINION CONSOLIDATING PROCEEDINGS, CLARIFYING RULES FOR ADVICE LETTERS UNDER THE UNIFORM REGULATORY FRAMEWORK, AND ADOPTING PROCEDURES FOR DETARIFFING (hereafter, "PD").

I.

INTRODUCTION

Verizon commends the assigned Commissioner, ALJs, advisors and staff for producing an excellent PD that would establish an 18-month permissive detariffing process for carriers under URF. In large part, the PD is well supported by the record and consistent with applicable law. There are, however, a few discrete items that should be modified to avoid unintended error, undue implementational burdens, and/or inconsistency with the companion Industry Rules. Verizon addresses these items below.

II.

THE OBLIGATION TO MAINTAIN A SEPARATE RESALE TARIFF FOR DETARIFFED SERVICES SHOULD BE ELIMINATED AS UNNECESSARY.

Although Verizon agrees that the URF decision is not intended to address wholesale pricing issues (including resale),² there is no need to maintain a separate resale tariff for detariffed services to achieve this result since the PD as written already

¹ These affiliates include Bell Atlantic Communications, Inc., d/b/a Verizon Long Distance (U-5732-C), NYNEX Long Distance Company d/b/a Verizon Enterprise Solutions (U-5658-C), MCI Communications Services, Inc., d/b/a Verizon Business Services (U-5378-C), MCI Metro Access Transmission Services, d/b/a Verizon Access Transmission Services (U-5253-C), TTI National, Inc., d/b/a Verizon Business Services (U-5403-C), Teleconnect Long Distance Services & Systems Company, d/b/a Telecom*USA (U-5152-C), Verizon California Inc. (U-1002-C), and Verizon Select Services Inc. (U-5494-C).

² See, e.g., Detariffing PD at 62.

requires carriers to Web publish the rates, terms and conditions of their detariffed retail services.³ As a legal and factual matter, there is no substantive difference between a given retail service and its resale counterpart, *but for* the fixed percentage discount that resellers are afforded under applicable law.⁴ The Telecommunications Act of 1996 establishes a duty on ILECs “to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail to subscribers who are not telecommunications carriers,” without regard to whether or not the service is tariffed.⁵ This resale obligation and associated wholesale discount are *mandated* by law and *cannot* be eliminated by detariffing.

The obligation to maintain a resale tariff for detariffed services, therefore, merely imposes an implementational burden that provides no benefit to resale customers but risks undermining many of the benefits detariffing is intended to provide. On the one hand, the PD would eliminate filing requirements for detariffed retail services: “Once a service is detariffed, the carrier need not file anything further with the Commission regarding the detariffed service, including advice letters or contracts.”⁶ On the other hand, every term, condition, or pricing change to any detariffed retail service would result in the resale tariff having to be updated by advice letter, subject to staff disposition. The information in this filing would merely duplicate the information regarding retail rates, terms and conditions already provided on carriers’ Web sites. Any benefits provided by detariffing in terms of reduced filing obligations for retail services, therefore, would be offset by duplicative filing obligations for resale services. As discussed, this is a burden with no benefit since maintaining a resale tariff, or not, has no effect on the obligation to offer detariffed services for resale at wholesale prices consistent with applicable law.

³ PD at Findings of Fact 20 and 22, and Conclusions of Law 11 and 23.

⁴ See, Ordering Paragraph 2 of D.96-12-076, *mimeo* at 12 (“When new retail services are introduced, Pacific and GTEC shall make available a wholesale version of the service for resale . . . subject to a discount off the retail rate of 17% for Pacific and 12% for GTEC . . .”).

⁵ 47 C.F.R. § 51.603.

⁶ PD at 53.

To address this problem, the PD should be modified to delete the resale tariffing obligation for detariffed services.⁷ Verizon echoes this point in its separate comments on the proposed Industry Rules, which should be modified accordingly.

III.

THE 3-YEAR ARCHIVING REQUIREMENT SHOULD BE MODIFIED TO REQUIRE PRODUCTION OF HISTORIC PRICE DATA ONLY UPON REQUEST.

The proposed obligation to Web publish a 3-year archive of changes to rates, terms and conditions of all detariffed services⁸ would create unnecessary implementational burdens that the PD does not address. For example, the PD would require carriers to expend the IT and administrative resources required to build and maintain such a Web site without any record evidence that the benefits of such a requirement would outweigh its costs, as required by Public Utilities Code § 321.1. In addition, publishing *past* prices could very well cause unintended confusion for customers who merely wish to obtain information regarding carriers' *current* prices and service options. These issues can easily be addressed, without prejudice to any person actually wishing to obtain historic price data, by limiting the obligation to produce such data only "upon request."⁹

IV.

CONCLUSION

Verizon stands ready to work with the Commission to expeditiously finalize and approve the PD consistent with the minor technical changes Verizon proposes above.

⁷ See, e.g., PD at 74, Ordering Paragraph 3(e), which consistent with these comments should be modified as follows: "A tariff for a service that was not granted full pricing flexibility in D.06-08-030 (e.g., resale services, **except that resale tariffs need not be maintained insofar as they relate to retail services that have been detariffed**). (Throughout these comments, proposed deletions to the PD are in ~~strike through~~; additions are in **underlined bold italics**.)

⁸ PD at 67, Finding of Fact 20.

⁹ See, e.g., PD at 67, Finding of Fact 20, which in pertinent part should be modified as follows: "We also require that carriers archive this information for three years, and make this archive available to the public **upon request**." See also PD at 38: "An archive of a carrier's retail rates (both tariffed and detariffed) must be made available ~~on the web~~ **upon request** for three years, with dates of effectiveness and geographic applicability clearly delineated."

This will bring the Commission one step further towards implementing its Uniform Regulatory Framework for the continuing benefit of all Californians.

Date: August 13, 2007

Respectfully submitted,

By: /s/ Rudolph M. Reyes
RUDOLPH M. REYES

Rudolph M. Reyes
711 Van Ness Avenue, Suite 300
San Francisco, CA 94102
Tel: 415-474-0468
Fax: 415-474-6546
rudolph.m.reyes@verizon.com

Attorney for Verizon

CERTIFICATE OF SERVICE

I hereby certify that: I am over the age of eighteen years and not a party to the within entitled action; my business address is 711 Van Ness Avenue, Suite 300, San Francisco, California 94102; I have this day served a copy of the foregoing,

**OPENING COMMENTS OF VERIZON CALIFORNIA INC. (U-1002-C) AND ITS
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by electronic mail to those who have provided an e-mail address and by U.S. Mail to those who have not, on the service list.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this August 13, 2007 at San Francisco, California.

/s/ Thomas Bird
Thomas Bird

CALIFORNIA PUBLIC UTILITIES COMMISSION

Service Lists

Proceeding: R0504005 - CPUC - PAC BELL, VER

Filer: CPUC - FRONTIER COMMUNICATIONS OF CALIFORNIA

List Name: INITIAL LIST

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Appearance

HARRY GILDEA
SNAVELY KING MAJOROS O'CONNOR & LEE INC.
1111 14TH STREET NW
WASHINGTON, DC 20005

RICHARD B. LEE
SNAVELY KING & MAJOROS O'CONNOR & LEE INC
1111 14TH STREET NW
WASHINGTON, DC 20005

MICHELE F. JOY
GENERAL COUNSEL
ASSOCIATION OF OIL PIPE LINES
1101 VERMONT AVENUE N.W. STE 604
WASHINGTON, DC 20005-3521

KIM LOGUE
REGULATORY ANALYST
LCI INTERNATIONAL TELECOM CORP.
4250 N. FAIRFAX DRIVE, 12W002
ARLINGTON, VA 22203

TERRANCE A. SPANN
U. S. ARMY LEGAL SERVICES AGENCY
REGULATORY LAW OFFICE JALS-RL
901 N. STUART STREET, SUITE 700
ARLINGTON, VA 22203

CECIL O. SIMPSON, JR.
US ARMY LEGAL SERVICES AGENCY
901 NORTH STUART STREET, SUITE 713
ARLINGTON, VA 22203-1837

ROBERT A. SMITHMIDFORD
VICE PRESIDENT
BANK OF AMERICA
8011 VILLA PARK DRIVE
RICHMOND, VA 23228-2332

HUGH COWART
BANK OF AMERICA TECHNOLOGY & OPERATIONS
FL9-400-01-10
9000 SOUTHSIDE BLVD, BUILDING 400 1ST FL
JACKSONVILLE, FL 32256

KEVIN SAVILLE
ASSOCIATE GENERAL COUNSEL
FRONTIER COMMUNICATIONS

KEVIN SAVILLE
ASSOCIATE GENERAL COUNSEL
CITIZENS/FRONTIER COMMUNICATIONS

2378 WILSHIRE BLVD.
MOUND, MN 55364

2378 WILSHIRE BLVD.
MOUND, MN 55364

MICHAEL BROSCHE
UTILITECH INC.
740 NORTH BLUE PARKWAY, STE. 204
LEE'S SUMMIT, MO 64086

ANN JOHNSON
VERIZON
HQE02F61
600 HIDDEN RIDGE
IRVING, TX 75038

ROBIN BLACKWOOD
ATTORNEY AT LAW
VERIZON
600 HIDDEN RIDGE, HQE 03H29
IRVING, TX 75038

ROBBIE RALPH
DIRECTOR, ECONOMIC REGULATION & TARIFF
SHELL CALIFORNIA PIPELINE COMPANY LLC
PO BOX 2648
HOUSTON, TX 77252-2648

ANNA M. SANCHOU
GENERAL MANAGER - NETWORK REGULATORY
SOUTHWESTERN BELL MESSAGING SERVICES INC
5800 NW PARKWAY, STE. 125
SAN ANTONIO, TX 78249

REX KNOWLES
REGIONAL VICE PRESIDENT
XO COMMUNICATIONS SERVICES, INC.
111 EAST BROADWAY, SUITE 1000
SALT LAKE CITY, UT 84111

EDWARD B. GIESEKING
DIRECTOR/PRICING AND TARIFFS
SOUTHWEST GAS CORPORATION
5241 SPRING MOUNTAIN ROAD
LAS VEGAS, NV 89150

VALERIE J. ONTIVEROZ
SOUTHWEST GAS CORPORATION
PO BOX 98510
LAS VEGAS, NV 89193-8510

NIKAYLA K. NAIL THOMAS
EXECUTIVE DIRECTOR
CALTEL
515 S. FLOWER STREET, 47/F
LOS ANGELES, CA 90071

JERRY R. BLOOM
ATTORNEY AT LAW
WINSTON & STRAWN LLP
333 SOUTH GRAND AVENUE, 38TH FLOOR
LOS ANGELES, CA 90071-1543

ROBERT J. DIPRIMIO
VALENCIA WATER COMPANY
24631 AVENUE ROCKEFELLER
VALENCIA, CA 91355

DON EACHUS
VERIZON CALIFORNIA, INC.
CA501LB
112 S. LAKE LINDERO CANYON ROAD
THOUSAND OAKS, CA 91362

JESUS G. ROMAN
ATTORNEY AT LAW
VERIZON ACCESS TRANSMISSION SERVICES
112 S. LAKEVIEW CANYON ROAD, CA501LB
THOUSAND OAKS, CA 91362

MICHAEL A. BACKSTROM
ATTORNEY AT LAW
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770

ROLAND S. TANNER
SOUTHERN CALIFORNIA WATER COMPANY
PO BOX 9016
SAN DIMAS, CA 91773

PAUL A. SZYMANSKI
ATTORNEY AT LAW
SAN DIEGO GAS & ELECTRIC COMPANY
101 ASH STREET
SAN DIEGO, CA 92101

ESTHER NORTHRUP
COX CALIFORNIA TELCOM
5159 FEDERAL BLVD.
SAN DIEGO, CA 92105

PETER M. DITO
KINDER MORGAN ENERGY PARTNERS
1100 TOWN AND COUNTRY ROAD
ORANGE, CA 92868

MIKE MULKEY
ARRIVAL COMMUNICATIONS
1807 19TH STREET
BAKERSFIELD, CA 93301

CHRISTINE MAILLOUX
ATTORNEY AT LAW
THE UTILITY REFORM NETWORK
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO, CA 94102

DIANE I. FELLMAN
FPL ENERGY PROJECT MANAGEMENT, INC.
234 VAN NESS AVENUE
SAN FRANCISCO, CA 94102

ELAINE M. DUNCAN
ATTORNEY AT LAW
VERIZON
711 VAN NESS AVENUE, SUITE 300
SAN FRANCISCO, CA 94102

KRISTIN L. JACOBSON
SPRINT NEXTEL
201 MISSION STREET, SUITE 1400
SAN FRANCISCO, CA 94102

MICHEL PETER FLORIO
ATTORNEY AT LAW
THE UTILITY REFORM NETWORK (TURN)
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO, CA 94102

REGINA COSTA
RESEARCH DIRECTOR
THE UTILITY REFORM NETWORK
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO, CA 94102

RUDOLPH M. REYES
ATTORNEY AT LAW
VERIZON
711 VAN NESS AVENUE, SUITE 300
SAN FRANCISCO, CA 94102

THOMAS J. LONG
ATTORNEY AT LAW
OFFICE OF THE CITY ATTORNEY
CITY HALL, ROOM 234
SAN FRANCISCO, CA 94102

WILLIAM NUSBAUM
ATTORNEY AT LAW
THE UTILITY REFORM NETWORK
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO, CA 94102

LAURA E. GASSER
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION

MONICA L. MCCRARY
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION

ROOM 4107
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

ROOM 5134
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

NATALIE WALES
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 4107
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

SINDY J. YUN
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 4300
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

THOMAS A. DOUB
CALIF PUBLIC UTILITIES COMMISSION
ENERGY COST OF SERVICE & NATURAL GAS BRA
ROOM 4205
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

HEIDI SIECK WILLIAMSON
DEPT OF TELECOMMUNICATIONS & INFORMATION
CITY & COUNTY OF SAN FRANCISCO
875 STEVENSON STREET, 5TH FLOOR
SAN FRANCISCO, CA 94103

STEPHEN B. BOWEN
ATTORNEY AT LAW
BOWEN LAW GROUP
235 MONTGOMERY STREET, SUITE 920
SAN FRANCISCO, CA 94104

ANN KIM
ATTORNEY AT LAW
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, B30A
SAN FRANCISCO, CA 94105

DAVID DISCHER
ATTORNEY AT LAW
PACIFIC BELL TELEPHONE COMPANY
525 MARKET STREET, RM. 2027
SAN FRANCISCO, CA 94105

EMERY G. BORSODI
DIRECTOR RATES & REG. RELATIONS
AT&T CALIFORNIA
525 MARKET ST., RM. 1921
SAN FRANCISCO, CA 94105

ERINN R.W. PUTZI
THE STRANGE LAW FIRM, PC
282 SECOND STREET, SUITE 201
SAN FRANCISCO, CA 94105

FASSIL T. FENIKILE
AT&T CALIFORNIA
525 MARKET STREET, ROOM 1925
SAN FRANCISCO, CA 94105

GREGORY L. CASTLE
SENIOR ATTORNEY
AT&T CALIFORNIA
525 MARKET STREET, SUITE 2022
SAN FRANCISCO, CA 94105

GWEN JOHNSON
C/O AT&T CALIFORNIA
525 MARKET STREET, 18TH FLOOR, 6
SAN FRANCISCO, CA 94105

JADINE LOUIE
REGULATORY SERVICES
SBC CALIFORNIA
ASSOCIATE DIRECTOR
525 MARKET ST., 19FL, 7
SAN FRANCISCO, CA 94105

JAMES YOUNG
GENERAL ATTORNEY & ASSIST. GENERAL COUN
AT&T CALIFORNIA
525 MARKET STREET, SUITE 1904
SAN FRANCISCO, CA 94105

JOHN P. CLARKE
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, MCB10C
SAN FRANCISCO, CA 94105

MARY E. WAND
ATTORNEY AT LAW
MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105

MICHAEL D. SASSER
GENERAL ATTORNEY
PACIFIC BELL (AT&T CALIFORNIA)
525 MARKET ST., RM. 2021
SAN FRANCISCO, CA 94105

NEDYA CAMPBELL
AT&T CALIFORNIA
525 MARKET STREET, 19TH FLOOR
SAN FRANCISCO, CA 94105

NELSONYA CAUSBY
ATTORNEY AT LAW
AT&T CALIFORNIA
525 MARKET ST., STE 2025
SAN FRANCISCO, CA 94105

PAUL P. STRANGE
ATTORNEY AT LAW
THE STRANGE LAW FIRM
282 SECOND STREET, SUITE 201
SAN FRANCISCO, CA 94105

PHUONG N. PHAM
MORRISON & FOERSTER
425 MARKET STREET
SAN FRANCISCO, CA 94105

STEPHEN H. KUKTA
COUNSEL
SPRINT NEXTEL
201 MISSION STREET, STE. 1400
SAN FRANCISCO, CA 94105

THOMAS SELHORST
AT&T CALIFORNIA
525 MARKET STREET, RM. 2023
SAN FRANCISCO, CA 94105

MARILYN H. ASH
U.S. TELEPACIFIC CORP.
620/630 3RD ST.
SAN FRANCISCO, CA 94107

PETER A. CASCIATO
ATTORNEY AT LAW
PETER A. CASCIATO P.C.
355 BRYANT STREET, SUITE 410
SAN FRANCISCO, CA 94107

CHERYL HILLS
ICG COMMUNICATIONS, INC.
620 3RD ST
SAN FRANCISCO, CA 94107-1902

ARTHUR D. LEVY
639 FRONT STREET, 4TH FLOOR
SAN FRANCISCO, CA 94111

CARL K. OSHIRO
ATTORNEY AT LAW
CSBRT/CSBA
100 PINE STREET, SUITE 3110
SAN FRANCISCO, CA 94111

DAVID A. SIMPSON
SIMPSON PARTNERS
900 FRONT STREET

E. GARTH BLACK
ATTORNEY AT LAW
COOPER, WHITE & COOPER, LLP

SAN FRANCISCO, CA 94111

201 CALIFORNIA STREET, 17TH FLOOR
SAN FRANCISCO, CA 94111

ENRIQUE GALLARDO
LATINO ISSUES FORUM
160 PINE STREET, SUITE 700
SAN FRANCISCO, CA 94111

JAMES D. SQUERI
ATTORNEY AT LAW
GOODIN MACBRIDE SQUERI DAY & LAMPREY
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

JAMES M. TOBIN
ESQUIRE
TWO EMBARCADERO CENTER, SUITE 1800
SAN FRANCISCO, CA 94111

JEANNE B. ARMSTRONG
ATTORNEY AT LAW
GOODIN MACBRIDE SQUERI RITCHIE & DAY LLP
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

JEFFREY F. BECK
ATTORNEY AT LAW
COOPER, WHITE & COOPER, L.L.P.
201 CALIFORNIA ST., 17TH FLOOR
SAN FRANCISCO, CA 94111

JOSEPH F. WIEDMAN
ATTORNEY AT LAW
GOODIN MACBRIDE SQUERI DAY & LAMPREY LLP
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

MARGARET L. TOBIAS
MANDELL LAW GROUP, PC
THREE EMBARCADERO CENTER, SIXTH FL.
SAN FRANCISCO, CA 94111

MARK P. SCHREIBER
ATTORNEY AT LAW
COOPER, WHITE & COOPER, LLP
201 CALIFORNIA STREET, 17TH FLOOR
SAN FRANCISCO, CA 94111

MICHAEL B. DAY
ATTORNEY AT LAW
GOODIN MACBRIDE SQUERI DAY & LAMPREY LLP
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

PATRICK M. ROSVALL
ATTORNEY AT LAW
COOPER, WHITE & COOPER, LLP
201 CALIFORNIA STREET, 17TH FLOOR
SAN FRANCISCO, CA 94111

PATRICK M. ROSVALL
COOPER WHITE & COOPER, LLP
201 CALIFORNIA STREET, 17TH FLOOR
SAN FRANCISCO, CA 94111

SARAH DEYOUNG
EXECUTIVE DIRECTOR
CALTEL
50 CALIFORNIA STREET, SUITE 1500
SAN FRANCISCO, CA 94111

SARAH E. LEEPER
STEEFEL LEVITT & WEISS PC
1 EMBARCADERO CENTER 29TH FLOOR
SAN FRANCISCO, CA 94111

THOMAS J. MACBRIDE, JR.
ATTORNEY AT LAW
GOODIN MACBRIDE SQUERI DAY & LAMPREY LLP
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

MARTIN A. MATTES
ATTORNEY AT LAW
NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP
50 CALIFORNIA STREET, 34TH FLOOR
SAN FRANCISCO, CA 94111-4799

EDWARD W. O'NEILL
ATTORNEY AT LAW
DAVIS WRIGHT TREMAINE, LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

SUZANNE TOLLER
ATTORNEY AT LAW
DAVIS WRIGHT TREMAINE
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

THOMAS HAMMOND
REAL TELEPHONE COMPANY
PO BOX 640410
SAN FRANCISCO, CA 94164-0410

EARL NICHOLAS SELBY
ATTORNEY AT LAW
LAW OFFICES OF EARL NICHOLAS SELBY
418 FLORENCE STREET
PALO ALTO, CA 94301

TERRY L. MURRAY
MURRAY & CRATTY
8627 THORS BAY ROAD
EL CERRITO, CA 94530

RICHARD M. HAIRSTON
R.M. HAIRSTON COMPANY
1112 LA GRANDE AVENUE
NAPA, CA 94558-2168

BETSY STOVER GRANGER
PACIFIC BELL WIRELESS
4420 ROSEWOOD DRIVE, 4TH FLOOR
PLEASANTON, CA 94588

DOROTHY CONNELLY
DIRECTOR, GOVERNMENT RELATIONS
AIRTOUCH COMMUNICATIONS, INC.
2999 OAK RD 5
WALNUT CREEK, CA 94597-2066

MARCO GOMEZ
ATTORNEY AT LAW
S.F. BAY AREA RAPID TRANSIT
PO BOX 12688
OAKLAND, CA 94604-2688

DOUGLAS GARRETT
COX COMMUNICATIONS
2200 POWELL STREET, STE. 1035
EMERYVILLE, CA 94608

DOUG GARRETT
SENIOR DIRECTOR, GOVERNMENT AFFAIRS
ICG COMMUNICATIONS, INC.
180 GRAND AVENUE, STE 800
OAKLAND, CA 94612

GLENN SEMOW
CALIFORNIA CABLE & TELECOMM. ASSOC.
360 22ND STREET, STE. 750
OAKLAND, CA 94612

LESLA LEHTONEN
VP LEGAL AND REGULATORY AFFAIRS
CALIFORNIA CABLE & TELECOM ASSOCIATION
360 22ND STREET, SUITE 750
OAKLAND, CA 94612

MARIA POLITZER
CALIFORNIA CABLE & TELECOM ASSOCIATION
360 22ND STREET, NO. 750

REED V. SCHMIDT
VICE PRESIDENT
BARTLE WELLS ASSOCIATES

OAKLAND, CA 94612

1889 ALCATRAZ AVENUE
BERKELEY, CA 94703

ROBERT GNAIZDA
POLICY DIRECTOR/GENERAL COUNSEL
THE GREENLINING INSTITUTE
1918 UNIVERSITY AVENUE, SECOND FLOOR
BERKELEY, CA 94704

THALIA N.C. GONZALEZ
LEGAL COUNSEL
THE GREENLINING INSTITUTE
1918 UNIVERSITY AVE., 2ND FLOOR
BERKELEY, CA 94704

MELISSA W. KASNITZ
ATTORNEY AT LAW
DISABILITY RIGHTS ADVOCATES
2001 CENTER STREET, THIRD FLOOR
BERKELEY, CA 94704-1204

ROGER HELLER
ATTORNEY AT LAW
DISABILITY RIGHTS ADVOCATES
2001 CENTER STREET, THIRD FLOOR
BERKELEY, CA 94704-1204

PALLE JENSEN
DIRECTOR OF REGULATORY AFFAIRS
SAN JOSE WATER COMPANY
374 WEST SANTA CLARA STREET
SAN JOSE, CA 95196

RICHARD J. BALOCCO
PRESIDENT
CALIFORNIA WATER ASSOCIATION
374 W. SANTA CLARA STREET
SAN JOSE, CA 95196

SCOTT CRATTY
MURRAY & CRATTY, LLC
725 VICHY HILLS DRIVE
UKIAH, CA 95482

CHARLES BORN
MANAGER, GOVERNMENT & EXTERNAL AFFAIRS
FRONTIER COMMUNICATIONS OF CALIFORNIA
9260 E. STOCKTON BLVD.
ELK GROVE, CA 95624

JOSEPH CHICOINE
MANAGER, GOVERNMENT & EXTERNAL AFFAIRS
9260 E. STOCKTON BLVD.
ELK GROVE, CA 95624

GREG R. GIERCZAK
EXECUTIVE DIRECTOR
SURE WEST TELEPHONE
PO BOX 969
200 VERNON STREET
ROSEVILLE, CA 95678

CHARLES E. BORN
MANAGER-STATE GOVERNMENT AFFAIRS
FRONTIER, A CITIZENS TELECOMMUNICATIONS
PO BOX 340
ELK GROVE, CA 95759

ANDREW BROWN
ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS, LLP
2015 H STREET
SACRAMENTO, CA 95811

CHRIS BROWN
EXECUTIVE DIRECTOR
CALIFORNIA URBAN WATER CONSERVATION
455 CAPITOL MAIL, SUITE 703
SACRAMENTO, CA 95814

DAVID HADDOCK
DIRECTOR, REGULATORY
01 COMMUNICATIONS, INC.
1515 K STREET, SUITE 100
SACRAMENTO, CA 95814

R. KEENAN DAVIS
GENERAL COUNSEL
01 COMMUNICATIONS, INC.
1515 K STREET, SUITE 100
SACRAMENTO, CA 95814

SHEILA DEY
WESTERN MANUFACTURED HOUSING COMMUNITIES
455 CAPITOL MALL STE 800
SACRAMENTO, CA 95814

TOM ECKHART
CAL - UCONS, INC.
10612 NE 46TH STREET
KIRKLAND, WA 98033

GREGORY J. KOPTA
DAVIS WRIGHT TREMAINE, LLP
1201 THIRD AVENUE, SUITE 2200
SEATTLE, WA 98101-3045

ANDREW O. ISAR
DIRECTOR, INDUSTRY RELATIONS
TELECOMMUNICATIONS RESELLERS ASSN.
7901 SKANSIE AVE 240
GIG HARBOR, WA 98335

Information Only

MICHAEL R. ROMANO
ATTORNEY AT LAW
LEVEL 3 COMMUNICATIONS, LLC
2300 CORPORATE PARK DR. STE 600
HERNDON, VA 20171-4845

KELLY FAUL
SENIOR MANAGER
1111 SUNSET HILLS DRIVE
RESTON, VA 20190

WILLIAM H. WEBER
ATTORNEY AT LAW
CBeyond COMMUNICATIONS
320 INTERSTATE NORTH PARKWAY
ATLANTA, GA 30339

DONALD M. JOHNSON
CHIEF OPERATING OFFICER
FULL POWER CORPORATION
2130 WATERS EDGE DR.
WESTLAKE, OH 44135-6602

KATHERINE K. MUDGE
ATTORNEY AT LAW
COVAD COMMUNICATIONS COMPANY
7000 NORTH MOPAC EXPRESSWAY, 2ND FLOOR
AUSTIN, TX 78731

JEFF WIRTZFELD
REGULATORY CONTACT
QWEST COMMUNICATION CORPORATION
1801 CALIFORNIA STREET, SUITE 4700
DENVER, CO 80202

MARJORIE O. HERLTH
QWEST COMMUNICATIONS CORPORATION
1801 CALIFORNIA ST., SUITE 4700
DENVER, CO 80202

GREGORY T. DIAMOND
7901 LOWRY BLVD.
DENVER, CO 80230

ALOA STEVENS
FRONTIER, A CITIZENS COMMUNICATIONS CO.
299 S MAIN ST STE 1700
SALT LAKE CITY, UT 84111-2279

AARON THOMAS
AES NEWENERGY, INC.
350 S. GRAND AVENUE, SUITE 2950
LOS ANGELES, CA 90071

NORMAN A. PEDERSEN
ATTORNEY AT LAW
HANNA AND MORTON, LLP
444 SOUTH FLOWER STREET, NO. 1500
LOS ANGELES, CA 90071

JANE DELAHANTY
U.S. TELEPACIFIC CORP.
515 S. FLOWER STREET, 47TH FLOOR
LOS ANGELES, CA 90071-2201

JACQUE LOPEZ
LEGAL ASSISTANT
VERIZON CALIFORNIA INC
CA501LB
112 LAKEVIEW CANYON ROAD
THOUSAND OAKS, CA 91362

DANIEL W. DOUGLASS
ATTORNEY AT LAW
DOUGLASS & LIDDELL
21700 OXNARD STREET, SUITE 1030
WOODLAND HILLS, CA 91367

CASE ADMINISTRATION
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE, RM 321
ROSEMEAD, CA 91770

ALLEN K. TRIAL
COUNSEL
SAN DIEGO GAS & ELECTRIC COMPANY
101 ASH STREET, HQ-12D
SAN DIEGO, CA 92101

MICHAEL SHAMES
ATTORNEY AT LAW
UTILITY CONSUMERS' ACTION NETWORK
3100 FIFTH AVENUE, SUITE B
SAN DIEGO, CA 92103

CARL C. LOWER
UTILITY SPECIALISTS
717 LAW STREET
SAN DIEGO, CA 92109-2436

STEVE LAFOND
PUBLIC UTILITIES DEPARTMENT
CITY OF RIVERSIDE
2911 ADAMS STREET
RIVERSIDE, CA 92504

DONALD H. MAYNOR
ATTORNEY AT LAW
235 CATALPA DRIVE
ATHERTON, CA 94027

JUDY PECK
SEMPRA ENERGY UTILITIES
601 VAN NESS AVENUE, SUITE 2060
SAN FRANCISCO, CA 94102

MARZIA ZAFAR
SAN DIEGO GAS & ELECTRIC/SOCAL GAS
601 VAN NESS AVENUE, SUITE 2060
SAN FRANCISCO, CA 94102

ANNA KAPETANAKOS
SENIOR COUNSEL
AT&T CALIFORNIA

MARGARET L. TOBIAS
TOBIAS LAW OFFICE
460 PENNSYLVANIA AVENUE

525 MARKET STREET, ROOM 2024
SAN FRANCISCO, CA 94105

SAN FRANCISCO, CA 94107

MARILYN H. ASH
U.S. TELEPACIFIC CORP.
620/630 3RD ST.
SAN FRANCISCO, CA 94107

NANCY E. LUBAMERSKY
VICE PRESIDENT
U.S. TELEPACIFIC CORP.
620/630 3RD ST.
SAN FRANCISCO, CA 94107

MARK LYONS
SIMPSON PARTNERS LLP
SUITE 1800
TWO EMBARCADERO CENTER
SAN FRANCISCO, CA 94111

VINCE VASQUEZ
SENIOR FELLOW, TECHNOLOGY STUDIES
PACIFIC RESEARCH INSTITUTE
755 SANSOME STREET, SUITE 450
SAN FRANCISCO, CA 94111

JUDY PAU
DAVIS WRIGHT TREMAINE LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

KATIE NELSON
DAVIS WRIGHT TREMAINE, LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

TREG TREMONT
ATTORNEY AT LAW
DAVIS WRIGHT TREMAINE, LLP
505 MONTGOMERY STREET, SUITE 800
SAN FRANCISCO, CA 94111-6533

ALLEN S. HAMMOND, IV
PROFESSOR OF LAW
SANTA CLARA UNIVERSITY SCHOOL OF LAW
500 EL CAMINO REAL
SANTA CLARA, CA 94305

STAFF COUNSEL
CONSUMER FEDERATION OF CALIFORNIA
520 EL CAMINO REAL, STE 340
SAN MATEO, CA 94402

ALEXIS K. WODTKE
STAFF ATTORNEY
CONSUMER FEDERATION OF CALIFORNIA
520 S. EL CAMINO REAL, STE. 340
SAN MATEO, CA 94402

JOHN DUTCHER
VICE PRESIDENT - REGULATORY AFFAIRS
MOUNTAIN UTILITIES
3210 CORTE VALENCIA
FAIRFIELD, CA 94534-7875

LOU FILIPOVICH
15376 LAVERNE DRIVE
SAN LEANDRO, CA 94579

JOHN R. GUTIERREZ
COMCAST PHONE OF CALIFORNIA, LLC
12647 ALCOSTA BLVD., SUITE 200
SAN RAMON, CA 94583

JOANN RICE
REGULATORY MANAGER
SBC LONG DISTANCE
5850 W. LAS POSITAS BLVD.
PLEASANTON, CA 94588

ANITA C. TAFF-RICE
ATTORNEY AT LAW
1547 PALOS VERDES MALL, SUITE 298
WALNUT CREEK, CA 94597

LEON M. BLOOMFIELD
ATTORNEY AT LAW
WILSON & BLOOMFIELD, LLP
1901 HARRISON STREET, SUITE 1620
OAKLAND, CA 94612

SHELLEY BERGUM
DEAF & DISABLED TELECOMMUNICATIONS PRGRM
505 14TH STREET, SUITE 400
OAKLAND, CA 94612-3532

TIMOTHY S. GUSTER
GENERAL COUNSEL
GREAT OAKS WATER COMPANY
PO BOX 23490
SAN JOSE, CA 95153

RICHARD H. LEVIN
ATTORNEY AT LAW
6741 SEBASTOPOL AVE STE 230
SEBASTOPOL, CA 95472-3838

ALEXANDRA HANSON
DIRECTOR PROVISIONING
01 COMMUNICATIONS, INC.
1515 K STREET, SUITE 100
SACRAMENTO, CA 95814

SCOTT BLAISING
ATTORNEY AT LAW
BRAUN & BLAISING, P.C.
915 L STREET, STE. 1270
SACRAMENTO, CA 95814

SHEILA HARRIS
MANAGER, GOVERNMENT AFFAIRS
INTEGRA TELECOM HOLDINGS, INC.
1201 NE LLOYD BLVD., STE.500
PORTLAND, OR 97232

ADAM L. SHERR
ATTORNEY AT LAW
QWEST COMMUNICATIONS CORPORATION
1600 7TH AVENUE, 3206
SEATTLE, WA 98191-0000

State Service

DANIEL R. PAIGE
CALIF PUBLIC UTILITIES COMMISSION
WATER BRANCH
320 WEST 4TH STREET SUITE 500
LOS ANGELES, CA 90013

CHARLES H. CHRISTIANSEN
CALIF PUBLIC UTILITIES COMMISSION
PROGRAM MANAGEMENT & IMPLEMENTATION BRAN
AREA 3-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

CHERRIE CONNER
CALIF PUBLIC UTILITIES COMMISSION
PROGRAM MANAGEMENT & IMPLEMENTATION BRAN
AREA 3-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

DANILO E. SANCHEZ
CALIF PUBLIC UTILITIES COMMISSION
WATER BRANCH
ROOM 3200
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

DONALD J. LAFRENZ
CALIF PUBLIC UTILITIES COMMISSION
RATEMAKING BRANCH
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

FE N. LAZARO
CALIF PUBLIC UTILITIES COMMISSION
PROGRAM MANAGEMENT & IMPLEMENTATION BRAN
AREA 3-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

FRED L. CURRY
CALIF PUBLIC UTILITIES COMMISSION
WATER ADVISORY BRANCH
ROOM 3106
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

HELEN M. MICKIEWICZ
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5123
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JACQUELINE A. REED
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5017
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JAMES SIMMONS
CALIF PUBLIC UTILITIES COMMISSION
TELECOMMUNICATIONS & CONSUMER ISSUES BRA
ROOM 4108
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JANE WHANG
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5029
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JEORGE S. TAGNIPES
CALIF PUBLIC UTILITIES COMMISSION
ENERGY RESOURCES BRANCH
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JOHN E. THORSON
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5112
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

KARIN M. HIETA
CALIF PUBLIC UTILITIES COMMISSION
TELECOMMUNICATIONS & CONSUMER ISSUES BRA
ROOM 4108
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

KARL BEMESDERFER
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5006
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

LEE-WHEI TAN
CALIF PUBLIC UTILITIES COMMISSION
PROGRAM MANAGEMENT & IMPLEMENTATION BRAN
AREA 3-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

MICHAEL C. AMATO
CALIF PUBLIC UTILITIES COMMISSION
PROGRAM MANAGEMENT & IMPLEMENTATION BRAN
ROOM 3203
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

MICHAEL D. MCNAMARA
CALIF PUBLIC UTILITIES COMMISSION
CARRIER BRANCH
ROOM 3207
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

NATALIE BILLINGSLEY
CALIF PUBLIC UTILITIES COMMISSION
TELECOMMUNICATIONS & CONSUMER ISSUES BRA

PHILLIP ENIS
CALIF PUBLIC UTILITIES COMMISSION
CONSUMER ISSUES ANALYSIS BRANCH

ROOM 4108
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

ROOM 2101
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

RICHARD FISH
CALIF PUBLIC UTILITIES COMMISSION
LICENSING TARIFFS, RURAL CARRIERS & COST
AREA 3-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

RICHARD SMITH
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5019
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

ROBERT M. POCTA
CALIF PUBLIC UTILITIES COMMISSION
ENERGY COST OF SERVICE & NATURAL GAS BRA
ROOM 4205
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

RUDY SASTRA
CALIF PUBLIC UTILITIES COMMISSION
UTILITY & PAYPHONE ENFORCEMENT
AREA 2-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

SIMIN LITKOUHI
CALIF PUBLIC UTILITIES COMMISSION
POLICY & DECISION ANALYSIS BRANCH
AREA 3-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

STEVEN KOTZ
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 2251
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

SUE WONG
CALIF PUBLIC UTILITIES COMMISSION
PROGRAM MANAGEMENT & IMPLEMENTATION BRAN
AREA 3-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

TIMOTHY J. SULLIVAN
CALIF PUBLIC UTILITIES COMMISSION
EXECUTIVE DIVISION
ROOM 5212
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

WILLIAM JOHNSTON
CALIF PUBLIC UTILITIES COMMISSION
POLICY & DECISION ANALYSIS BRANCH
AREA 3-F
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

WADE MCCARTNEY
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF STRATEGIC PLANNING
770 L STREET, SUITE 1050
SACRAMENTO, CA 95814

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Appearance

MICHELE F. JOY
GENERAL COUNSEL
ASSOCIATION OF OIL PIPE LINES
1101 VERMONT AVENUE N.W. STE 604
WASHINGTON, DC 20005-3521

KIM LOGUE
REGULATORY ANALYST
LCI INTERNATIONAL TELECOM CORP.
4250 N. FAIRFAX DRIVE, 12W002
ARLINGTON, VA 22203

CECIL O. SIMPSON, JR.
US ARMY LEGAL SERVICES AGENCY
901 NORTH STUART STREET, SUITE 713
ARLINGTON, VA 22203-1837

ROBERT A. SMITHMIDFORD
VICE PRESIDENT
BANK OF AMERICA
8011 VILLA PARK DRIVE
RICHMOND, VA 23228-2332

HUGH COWART
BANK OF AMERICA TECHNOLOGY & OPERATIONS
FL9-400-01-10
9000 SOUTHSIDE BLVD, BUILDING 400 1ST FL
JACKSONVILLE, FL 32256

KEVIN SAVILLE
ASSOCIATE GENERAL COUNSEL
FRONTIER COMMUNICATIONS
2378 WILSHIRE BLVD.
MOUND, MN 55364

ROBIN BLACKWOOD
ATTORNEY AT LAW
VERIZON
600 HIDDEN RIDGE, HQE 03H29
IRVING, TX 75038

ROBBIE RALPH
DIRECTOR, ECONOMIC REGULATION & TARIFF
SHELL CALIFORNIA PIPELINE COMPANY LLC
PO BOX 2648
HOUSTON, TX 77252-2648

ANNA M. SANCHOU
GENERAL MANAGER - NETWORK REGULATORY
SOUTHWESTERN BELL MESSAGING SERVICES INC

EDWARD B. GIESEKING
DIRECTOR/PRICING AND TARIFFS
SOUTHWEST GAS CORPORATION

5800 NW PARKWAY, STE. 125
SAN ANTONIO, TX 78249

5241 SPRING MOUNTAIN ROAD
LAS VEGAS, NV 89150

VALERIE J. ONTIVEROZ
SOUTHWEST GAS CORPORATION
PO BOX 98510
LAS VEGAS, NV 89193-8510

NIKAYLA K. NAIL THOMAS
EXECUTIVE DIRECTOR
CALTEL
515 S. FLOWER STREET, 47/F
LOS ANGELES, CA 90071

JERRY R. BLOOM
ATTORNEY AT LAW
WINSTON & STRAWN LLP
333 SOUTH GRAND AVENUE, 38TH FLOOR
LOS ANGELES, CA 90071-1543

ROBERT J. DIPRIMIO
VALENCIA WATER COMPANY
24631 AVENUE ROCKEFELLER
VALENCIA, CA 91355

JESUS G. ROMAN
ATTORNEY AT LAW
VERIZON ACCESS TRANSMISSION SERVICES
112 S. LAKEVIEW CANYON ROAD, CA501LB
THOUSAND OAKS, CA 91362

MICHAEL A. BACKSTROM
ATTORNEY AT LAW
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE
ROSEMEAD, CA 91770

ROLAND S. TANNER
SOUTHERN CALIFORNIA WATER COMPANY
PO BOX 9016
SAN DIMAS, CA 91773

PAUL A. SZYMANSKI
ATTORNEY AT LAW
SAN DIEGO GAS & ELECTRIC COMPANY
101 ASH STREET
SAN DIEGO, CA 92101

PETER M. DITO
KINDER MORGAN ENERGY PARTNERS
1100 TOWN AND COUNTRY ROAD
ORANGE, CA 92868

DIANE I. FELLMAN
FPL ENERGY PROJECT MANAGEMENT, INC.
234 VAN NESS AVENUE
SAN FRANCISCO, CA 94102

ELAINE M. DUNCAN
ATTORNEY AT LAW
VERIZON CALIFORNIA INC.
711 VAN NESS AVENUE, SUITE 300
SAN FRANCISCO, CA 94102

MICHEL PETER FLORIO
ATTORNEY AT LAW
THE UTILITY REFORM NETWORK (TURN)
711 VAN NESS AVENUE, SUITE 350
SAN FRANCISCO, CA 94102

MONICA L. MCCRARY
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 5134
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

SINDY J. YUN
CALIF PUBLIC UTILITIES COMMISSION
LEGAL DIVISION
ROOM 4300
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

THOMAS A. DOUB
CALIF PUBLIC UTILITIES COMMISSION
ENERGY COST OF SERVICE & NATURAL GAS BRA
ROOM 4205
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

HEIDI SIECK WILLIAMSON
DEPT OF TELECOMMUNICATIONS & INFORMATION
CITY & COUNTY OF SAN FRANCISCO
875 STEVENSON STREET, 5TH FLOOR
SAN FRANCISCO, CA 94103

ANN KIM
ATTORNEY AT LAW
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, B30A
SAN FRANCISCO, CA 94105

DAVID DISCHER
ATTORNEY AT LAW
PACIFIC BELL TELEPHONE COMPANY
525 MARKET STREET, RM. 2027
SAN FRANCISCO, CA 94105

JADINE LOUIE
REGULATORY SERVICES
SBC CALIFORNIA
ASSOCIATE DIRECTOR
525 MARKET ST., 19FL, 7
SAN FRANCISCO, CA 94105

JOHN P. CLARKE
PACIFIC GAS AND ELECTRIC COMPANY
77 BEALE STREET, MCB10C
SAN FRANCISCO, CA 94105

MARY E. WAND
ATTORNEY AT LAW
MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO, CA 94105

PHUONG N. PHAM
MORRISON & FOERSTER
425 MARKET STREET
SAN FRANCISCO, CA 94105

STEPHEN H. KUKTA
COUNSEL
SPRINT NEXTEL
201 MISSION STREET, STE. 1400
SAN FRANCISCO, CA 94105

MARILYN H. ASH
U.S. TELEPACIFIC CORP.
620/630 3RD ST.
SAN FRANCISCO, CA 94107

PETER A. CASCIATO
ATTORNEY AT LAW
PETER A. CASCIATO P.C.
355 BRYANT STREET, SUITE 410
SAN FRANCISCO, CA 94107

CHERYL HILLS
ICG COMMUNICATIONS, INC.
620 3RD ST
SAN FRANCISCO, CA 94107-1902

ARTHUR D. LEVY
639 FRONT STREET, 4TH FLOOR
SAN FRANCISCO, CA 94111

DAVID A. SIMPSON
SIMPSON PARTNERS
900 FRONT STREET
SAN FRANCISCO, CA 94111

ENRIQUE GALLARDO
LATINO ISSUES FORUM
160 PINE STREET, SUITE 700

JAMES D. SQUERI
ATTORNEY AT LAW
GOODIN MACBRIDE SQUERI DAY & LAMPREY

SAN FRANCISCO, CA 94111

505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111

JEFFREY F. BECK
ATTORNEY AT LAW
COOPER, WHITE & COOPER, L.L.P.
201 CALIFORNIA ST., 17TH FLOOR
SAN FRANCISCO, CA 94111

MARK P. SCHREIBER
ATTORNEY AT LAW
COOPER, WHITE & COOPER, LLP
201 CALIFORNIA STREET, 17TH FLOOR
SAN FRANCISCO, CA 94111

PATRICK M. ROSVALL
ATTORNEY AT LAW
COOPER, WHITE & COOPER, LLP
201 CALIFORNIA STREET, 17TH FLOOR
SAN FRANCISCO, CA 94111

MARTIN A. MATTES
ATTORNEY AT LAW
NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP
50 CALIFORNIA STREET, 34TH FLOOR
SAN FRANCISCO, CA 94111-4799

THOMAS HAMMOND
REAL TELEPHONE COMPANY
PO BOX 640410
SAN FRANCISCO, CA 94164-0410

EARL NICHOLAS SELBY
ATTORNEY AT LAW
LAW OFFICES OF EARL NICHOLAS SELBY
418 FLORENCE STREET
PALO ALTO, CA 94301

RICHARD M. HAIRSTON
R.M. HAIRSTON COMPANY
1112 LA GRANDE AVENUE
NAPA, CA 94558-2168

BETSY STOVER GRANGER
PACIFIC BELL WIRELESS
4420 ROSEWOOD DRIVE, 4TH FLOOR
PLEASANTON, CA 94588

DOROTHY CONNELLY
DIRECTOR, GOVERNMENT RELATIONS
AIRTOUCH COMMUNICATIONS, INC.
2999 OAK RD 5
WALNUT CREEK, CA 94597-2066

MARCO GOMEZ
ATTORNEY AT LAW
S.F. BAY AREA RAPID TRANSIT
PO BOX 12688
OAKLAND, CA 94604-2688

DOUG GARRETT
SENIOR DIRECTOR, GOVERNMENT AFFAIRS
ICG COMMUNICATIONS, INC.
180 GRAND AVENUE, STE 800
OAKLAND, CA 94612

LESLA LEHTONEN
STAFF ATTORNEY
CALIFORNIA CABLE TELEVISION ASSN.
360 22ND STREET, NO. 750
OAKLAND, CA 94612

REED V. SCHMIDT
VICE PRESIDENT
BARTLE WELLS ASSOCIATES
1889 ALCATRAZ AVENUE
BERKELEY, CA 94703

THALIA N.C. GONZALEZ
LEGAL COUNSEL
THE GREENLINING INSTITUTE
1918 UNIVERSITY AVENUE, 2ND FLOOR
BERKELEY, CA 94704

PALLE JENSEN
DIRECTOR OF REGULATORY AFFAIRS
SAN JOSE WATER COMPANY
374 WEST SANTA CLARA STREET
SAN JOSE, CA 95196

RICHARD J. BALOCCO
PRESIDENT
CALIFORNIA WATER ASSOCIATION
374 W. SANTA CLARA STREET
SAN JOSE, CA 95196

CHARLES E. BORN
MANAGER-STATE GOVERNMENT AFFAIRS
FRONTIER, A CITIZENS TELECOMMUNICATIONS
PO BOX 340
ELK GROVE, CA 95759

ANDREW BROWN
ATTORNEY AT LAW
ELLISON, SCHNEIDER & HARRIS, LLP
2015 H STREET
SACRAMENTO, CA 95811

CHRIS BROWN
EXECUTIVE DIRECTOR
CALIFORNIA URBAN WATER CONSERVATION
455 CAPITOL MAIL, SUITE 703
SACRAMENTO, CA 95814

SHEILA DEY
WESTERN MANUFACTURED HOUSING COMMUNITIES
455 CAPITOL MALL STE 800
SACRAMENTO, CA 95814

TOM ECKHART
CAL - UCONS, INC.
10612 NE 46TH STREET
KIRKLAND, WA 98033

ANDREW O. ISAR
DIRECTOR, INDUSTRY RELATIONS
TELECOMMUNICATIONS RESELLERS ASSN.
7901 SKANSIE AVE 240
GIG HARBOR, WA 98335

Information Only

KELLY FAUL
SENIOR MANAGER
1111 SUNSET HILLS DRIVE
RESTON, VA 20190

DONALD M. JOHNSON
CHIEF OPERATING OFFICER
FULL POWER CORPORATION
2130 WATERS EDGE DR.
WESTLAKE, OH 44135-6602

GREGORY T. DIAMOND
7901 LOWRY BLVD.
DENVER, CO 80230

REX KNOWLES
REGIONAL VICE PRESIDENT
XO COMMUNICATIONS SERVICES, INC.
111 EAST BROADWAY, SUITE 1000
SALT LAKE CITY, UT 84111

AARON THOMAS
AES NEWENERGY, INC.
350 S. GRAND AVENUE, SUITE 2950
LOS ANGELES, CA 90071

NORMAN A. PEDERSEN
ATTORNEY AT LAW
HANNA AND MORTON, LLP
444 SOUTH FLOWER STREET, NO. 1500
LOS ANGELES, CA 90071

JANE DELAHANTY
U.S. TELEPACIFIC CORP.
515 S. FLOWER STREET, 47TH FLOOR
LOS ANGELES, CA 90071-2201

JACQUE LOPEZ
LEGAL ASSISTANT
VERIZON CALIFORNIA INC
CA501LB
112 LAKEVIEW CANYON ROAD
THOUSAND OAKS, CA 91362

DANIEL W. DOUGLASS
ATTORNEY AT LAW
DOUGLASS & LIDDELL
21700 OXNARD STREET, SUITE 1030
WOODLAND HILLS, CA 91367

CASE ADMINISTRATION
SOUTHERN CALIFORNIA EDISON COMPANY
2244 WALNUT GROVE AVENUE, RM 321
ROSEMEAD, CA 91770

ALLEN K. TRIAL
COUNSEL
SAN DIEGO GAS & ELECTRIC COMPANY
101 ASH STREET, HQ-12D
SAN DIEGO, CA 92101

ESTHER NORTHRUP
COX CALIFORNIA TELCOM
5159 FEDERAL BLVD.
SAN DIEGO, CA 92105

STEVE LAFOND
PUBLIC UTILITIES DEPARTMENT
CITY OF RIVERSIDE
2911 ADAMS STREET
RIVERSIDE, CA 92504

CHRISTINE A. MAILLOUX
ATTORNEY AT LAW
TURN
711 VAN NESS AVE., STE. 350
SAN FRANCISCO, CA 94102

JUDY PECK
SEMPRA ENERGY UTILITIES
601 VAN NESS AVENUE, SUITE 2060
SAN FRANCISCO, CA 94102

MARZIA ZAFAR
SAN DIEGO GAS & ELECTRIC/SOCAL GAS
601 VAN NESS AVENUE, SUITE 2060
SAN FRANCISCO, CA 94102

ANNA KAPETANAKOS
SENIOR COUNSEL
AT&T CALIFORNIA
525 MARKET STREET, ROOM 2024
SAN FRANCISCO, CA 94105

THOMAS J. SELHORST
SENIOR PARALEGAL
AT&T CALIFORNIA
525 MARKET STREET, RM. 2023
SAN FRANCISCO, CA 94105

MARGARET L. TOBIAS
TOBIAS LAW OFFICE
460 PENNSYLVANIA AVENUE
SAN FRANCISCO, CA 94107

JOHN DUTCHER
VICE PRESIDENT - REGULATORY AFFAIRS
MOUNTAIN UTILITIES
3210 CORTE VALENCIA
FAIRFIELD, CA 94534-7875

LOU FILIPOVICH
15376 LAVERNE DRIVE
SAN LEANDRO, CA 94579

JOANN RICE
REGULATORY MANAGER
SBC LONG DISTANCE

5850 W. LAS POSITAS BLVD.
PLEASANTON, CA 94588

TIMOTHY S. GUSTER
GENERAL COUNSEL
GREAT OAKS WATER COMPANY
PO BOX 23490
SAN JOSE, CA 95153

SCOTT BLAISING
ATTORNEY AT LAW
BRAUN & BLAISING, P.C.
915 L STREET, STE. 1270
SACRAMENTO, CA 95814

State Service

DANIEL R. PAIGE
CALIF PUBLIC UTILITIES COMMISSION
WATER BRANCH
320 WEST 4TH STREET SUITE 500
LOS ANGELES, CA 90013

CHERRIE CONNER
CALIF PUBLIC UTILITIES COMMISSION
PROGRAM MANAGEMENT & IMPLEMENTATION BRAN
AREA 3-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

DANILO E. SANCHEZ
CALIF PUBLIC UTILITIES COMMISSION
WATER BRANCH
ROOM 3200
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

DONALD J. LAFRENZ
CALIF PUBLIC UTILITIES COMMISSION
RATEMAKING BRANCH
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

FE N. LAZARO
CALIF PUBLIC UTILITIES COMMISSION
PROGRAM MANAGEMENT & IMPLEMENTATION BRAN
AREA 3-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

FRED L. CURRY
CALIF PUBLIC UTILITIES COMMISSION
WATER ADVISORY BRANCH
ROOM 3106
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

GEORGE S. TAGNIPES
CALIF PUBLIC UTILITIES COMMISSION
ENERGY RESOURCES BRANCH
AREA 4-A
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

JOHN E. THORSON
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 5112
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

MICHAEL D. MCNAMARA
CALIF PUBLIC UTILITIES COMMISSION
CARRIER BRANCH
ROOM 3207
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

NATALIE BILLINGSLEY
CALIF PUBLIC UTILITIES COMMISSION
TELECOMMUNICATIONS & CONSUMER ISSUES BRA
ROOM 4108
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

PHILLIP ENIS
CALIF PUBLIC UTILITIES COMMISSION
CONSUMER ISSUES ANALYSIS BRANCH

RICHARD FISH
CALIF PUBLIC UTILITIES COMMISSION
LICENSING TARIFFS, RURAL CARRIERS & COST

ROOM 2101
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

AREA 3-D
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

ROBERT M. POCTA
CALIF PUBLIC UTILITIES COMMISSION
ENERGY COST OF SERVICE & NATURAL GAS BRA
ROOM 4205
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

STEVEN KOTZ
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF ADMINISTRATIVE LAW JUDGES
ROOM 2251
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3214

WADE MCCARTNEY
CALIF PUBLIC UTILITIES COMMISSION
DIVISION OF STRATEGIC PLANNING
770 L STREET, SUITE 1050
SACRAMENTO, CA 95814

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